

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

Ava Wanliss, *surviving parent of*
Decedent Steven Campbell and as
Administratrix for the Estate of Steven
Campbell,

Plaintiff,

v.

Curtis Gooding, Shayla Ivory, Lettrechia
Clark, *Individually and as Next Friend*
of Uriah James, and Vilma Osborne,
Individually and as Next Friend of
Kellon Baptiste,

Console Plaintiffs,

v.

Continental Tire North America, Inc.,

Defendant.

CIVIL ACTION NO.
1:09-cv-01853-JOF

OPINION & ORDER

This matter is before the court on Defendant's partial motions to dismiss [29]; [31]; [33]; and [34].

Plaintiff, Ava Wanliss, as surviving parent and administratrix for the Estate of Steven Campbell, filed suit against Defendant, Continental Tire North America, Inc., on May 21,

2009, in the State Court of Fulton County. Defendant removed the suit to this court on July 9, 2009. Steven Campbell was a passenger in a car involved in a single car accident on June 3, 2007. That vehicle was driven by Leroy James, Jr., with five passengers: Steven Campbell, Curtis Gooding, minor K.B., minor E.J., and minor U.J. Steven Campbell died as a result of the accident. At the time of the accident, all passengers, including decedent Steven Campbell, were minors and Mr. James was 19 years old. All passengers remain minors, but for Curtis Gooding. Plaintiff's counsel represents all passengers and in an order dated June 11, 2010, the court consolidated the complaints filed on behalf of the other four passengers into the case originally filed on behalf of Ana Wanliss.

Prior to consolidation, Defendant filed the instant motions to dismiss in four cases. Defendant contends that Plaintiffs' claims for medical expenses incurred during their minority are improper because such claims are vested in the parents and not the minor child. Further, parents asserting those claims must do so within two years of the date of the accident. *See, e.g., Capp v. Carlito's Mexican Bar & Grill No. 1, Inc.*, 288 Ga. App. 779, 783 (2007); *Jarrell v. State Merit System of Personnel Administration*, 205 Ga. App. 527, 529 (1992); *Rose v. Hamilton Medical Center, Inc.*, 184 Ga. App. 182 (1987) (physical precedent only). That is, as to those complaints brought by the minor, himself, the claim for medical expenses is barred by Georgia statute. Additionally, medical expense claims brought by parents on behalf of the minor children are barred due to the expiration of the

statute of limitations. Plaintiffs did not respond to Defendant's partial motions to dismiss and the court deems the motions unopposed. *See* LR 7.1, N.D.Ga.

The court agrees that medical expense claims occurring during a minority must be brought by the parent and if the parent has not brought those claims within two years, they fall outside the statute of limitations. For those reasons, the court GRANTS Defendant's partial motions to dismiss [29]; [31]; [33]; and [34].

IT IS SO ORDERED this 15th day of July 2010.

/s/ J. Owen Forrester
J. OWEN FORRESTER
SENIOR UNITED STATES DISTRICT JUDGE